

77-1-7 Dismissal without trial -- Custody or discharge of defendant.

- (1)
- (a) Further prosecution for an offense is not barred if the court dismisses an information or indictment based on the ground:
 - (i) there was unreasonable delay;
 - (ii) the court is without jurisdiction;
 - (iii) the offense was not properly alleged in the information or indictment; or
 - (iv) there was a defect in the impaneling or the proceedings relating to the grand jury.
 - (b) The court may make orders regarding custody of the defendant pending the filing of new charges as the interest of justice may require. Otherwise, the defendant shall be discharged and bail exonerated.
- (2) An order of dismissal based upon unconstitutional delay in bringing the defendant to trial or upon the statute of limitations is a bar to any other prosecution for the offense charged.

Enacted by Chapter 7, 1990 General Session